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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/643,172	08/21/2000	William J. Meserve	PAHTL.047A	8734

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EXAMINER

NGUYEN, DINH Q

ART UNIT PAPER NUMBER

3752

DATE MAILED: 10/02/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/643,172

Applicant(s)

MESERVE ET AL.

Examiner

Dinh Q Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 26 February 2002.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-27 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 15-27 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 15, line 1, "the outlet" lacks antecedent basis.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

4. Claims 1, 5-7, 15, 25, 26 are rejected under 35 U.S.C. 102(b) as being anticipated by Miller.

Miller discloses a method and apparatus for preventing freezing of an outlet 60 of a fire extinguisher 36 comprising: a fire extinguisher bottle II, a removable container 50 contains a molecular sieve dryer to prevent freezing of the nozzle 60 (column 5, lines 1-5).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Tsuchiya.

Miller teaches all the limitations of the claims except for a zeolite drying agent . However, Tsuchiya discloses of using zeolite as a drying agent in a refrigerator fluid . Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Miller with a zeolite drying agent as suggested by Tsuchiya. Doing so would provide a drying agent to a fluid medium.

7. Claims 2, 13-24 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Griswold et al.

Miller teaches all the limitations of the claims except for a wire mesh container. Griswold discloses a fire extinguisher bottle 1 with a wire mesh removable container 25. It would have been obvious to one having ordinary skill in the art to configure the device of Miller with a wire mesh container as suggested by Griswold, since it would provide a way for releasing chemicals within a fire extinguisher.

8. Claims 3, 8, 9 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Birk.

Miller teaches all the limitations of the claims except for bromotrifluoromethane or halocarbon extinguisher fluid. Birk discloses bromotrifluoromethane or halocarbon as the extinguisher fluid (column 1, lines 25-64). It would have been obvious to one having ordinary skill in the art to have provided the device of Miller with bromotrifluoromethane

or halocarbon as the extinguisher fluid as suggested by Birk, since it would provide the most efficient fire suppression agents (column 1, lines 35-36).

9. Claims 7 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Miller.

With respect to claim 7, Miller discloses the claimed invention except for the fire extinguisher fluid, which is in contact with a drying agent for at least 2 days. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to configure the device of Miller with a drying agent being contacted with the fire extinguisher fluid for at least 2 days, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

With respect to claim 10, Miller discloses the claimed invention except for the fire extinguisher fluid contains less than 40 ppm of water. It would have been obvious to one having ordinary skill in the art at the time of the invention was made to have provided the device of Miller with the fire extinguisher fluid contains less than 40 ppm of water, since it has been held that discovering an optimum value of a result effective variable involves only routine skill in the art. In re Boesch, 617 F.2d 272, 205 USPQ 215 (CCPA 1980).

10. Claims 11 and 12 rejected under 35 U.S.C. 103(a) as being unpatentable over Miller in view of Drobyshev.

Miller teaches all the limitations of the claims except for granules, blocks or bars zeolite. However, Drobyshev discloses granules, blocks or bars zeolite being used as a

drying agent for a fire extinguisher. Therefore, it would have been obvious to one having ordinary skill in the art to have provided the device of Miller with granules, blocks or bars zeolite as suggested by Drobyshev. Doing so would provide a way to introduce different types of drying agents to a fire extinguisher.

Conclusion

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. 5,038,867 to Hindrichs discloses a way to prevent freezing of a fire extinguishing nozzle.

Response to Arguments

12. Applicant's arguments filed February 26, 2002 have been fully considered but they are not persuasive.

13. Applicant's arguments with respect to claims 1-27 have been considered but are moot in view of the new ground(s) of rejection.

14. The restriction requirement under 35 U.S.C. 121 is hereby withdrawn from further consideration.

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dinh Q Nguyen whose telephone number is (703) 305-0248. The examiner can normally be reached on Monday-Friday from 6:30 AM to 4:00 PM, alternate Friday off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on (703) 308-2087. The fax phone numbers

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for the organization where this application or proceeding is assigned are (703) 308-7766 for regular communications and (703) 746-4591 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0861.

dqn
September 30, 2002



Dinh Nguyen

Patent Examiner